

CYBER VIOLENCE AGAINST WOMEN AND GIRLS (CVAWG). THE ALGORITHMS OF THE ONLINE- OFFLINE CONTINUUM OF GENDER DISCRIMINATION

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ABSTRACT

Millions of women and girls across the globe are subjected to purposeful violence because of their gender. Violence against women and girls (VAWG) is universal, navigating borders, race, and culture and socio economic groups, harming society as a whole. Reports suggest that 73 % of women have already been exposed to or have experienced some form of online violence¹. For a problem of pandemic proportion, the Society has not yet formulated strategies to address impact of cyber violence, trauma that women, girls and are characteristically exposed to and mostly go unreported. Patriarchal superstructures, the limitations of legal recourse due to presumed absence of corporeal harm hamper justice for women. VAWG clogs the democratic utilization of cyber space by women to reap the benefits of a technology which can hardly be called gender neutral from its inception to use. As the cyber space expands and progressively becomes a fundamental part of people's lives, mind-sets and norm that contribute to cyber VAWG must be addressed with urgency where all stakeholders must enhance efforts to ensure a safer, more secure Internet for present and future generations before we become techno humans totally governed by skewed gendered algorithms.

KEYWORDS: Culture and Socio Economic Groups, Democratic Utilization of Cyber Space

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INTRODUCTION

DISCLAIMER

This article has a loud disclaimer: the benefit of the cyber technologies far outweighs the dark side of the technologies.

It is an indispensable tool for equality, equal partnership and percolation of benefits to the lowest common denominator in governance. Even in the context of the present paper the darker side has a positive learning aspect as it highlights the inherent social inequalities, racial, class and gendered prejudices. The masculinity of the real world permeates into the online world.

The paper also does not focus on the detailed semantics and types of cyber violence against girls and women or its technical aspects. It focuses on the social cultural norms and its technological settings in the real world which facilitates the victimization of women online and forms a continuum of gender discrimination in our society. It will also examine if the technology and its tools are really gender neutral as they are believed to be and if the response of the society and its agencies to violence against women in the cyber world is any different from the real or offline world. It will also discuss as to how the violence is differently perceived by the victim as opposed to the organs of the state or how our society responds to it.

Attempt is not to demonize technology or to project that all females are victims of this technology. It is intended to assist the conceptualization of the harm and the gender blindness of cyberspace in relation to CVAWG.

Introduction

Violence against women had existed in society which antecedes the appearance of phones and the internet. Violence against women is different from all other forms of violence and has four features i.e. persistence, specificity, universality and complexity (Musso M.G et al 2020)². Persistence is historical and cultural through ages; universal as it is diffused globally specific as it is gender centric and applies at multiple levels at the same time i.e. physical, psychological, sexual, economical, institutional and political. The violence against woman in cyberspace only reinforces the violence in the real world and provides another outlet to the potential offender to execute his biases and nefarious designs.

Industrialization and the later technological revolution were expected to lower traditional geographical, economic and social barriers. The technologies specially the ICT (Information and Communication Technologies) were expected to remove barriers to women participation in society and undo gender inequalities in society. But has a digital world removed gender inequalities in society that have been embedded for centuries? Has a digital world made our societies more inclusive to all sections that had been marginalized for centuries? The answer is yes; they have a voice and are heard, but are the changes transformative? With reference to gender, the women have become more independent, informed, participative, probably have gained more bargaining power but the process has challenged the long existing gender equations and power relation within the society. Women have gained more confidence through "Women empowerment", but as changes have come from realization within her it has frequently challenged the traditional male domination and the changes can hardly be called "transformative" from a societal perspective. Unless the men from within acknowledge these changes and relinquish some territory of power, influence prototypic role and spaces there would always be friction between the genders which is the root cause of violence against women and girls (VWAG).

The various reform movements and feminist self-assertiveness has definitely created a social transformation leading to modernity from the shackles of social conservatism. Female education and participation in the "paid work" has increased within a redefined patriarchal framework rather than dismantling of the same. The open expression of the women in the cyber space due to the wider reach and giving her a world stage however threatens this redefined patriarchal framework and often leads to a severe chastisement of women in the cyberspace by a trolling mob: this also proves how deeply this gender discrimination is engrained in our biology.

Women often with "intersecting identities" who do not fit in their gender prototype have experienced a continuum of belligerence like sexual advances sexist/racist comments abuse, insults, frightening to life threatening abuses³. This continuum of violence existing in the real world has now been proved to be true in the online world albeit with more technological sophistication and anonymity.

While internet has created a democratic space for women to participate equally, be heard and redefine gender norms and roles, it also is a space for a newer form of violence which aims to reaffirm existing culture of dominance and patronization to reinforce control of traditional dominance and exclude women and other marginalized groups (Powell and Honny, 2017)⁴.

The rectification of gender imbalance leads to opposition to women "empowerment" and often hatred and sometimes to violence in the real world. The gendered bromide then resonates in the online world.

In fact, in case of cyber violence disinhibition, anonymity, jurisdictional complication, victim blaming and de-individualizing the problem and the body and mind duality has led to a cocktail of problems difficult to comprehend and respond to.

Cyber World and Women

CVAWG is Gender based violence that is perpetrated through electronic communication and the Internet. From a wider lens the violence against women has to be seen in the gendered context to understand the online offline continuum. This is a result of heteronormativity where gender and their roles are biological and stereotyped.

The anonymity guaranteed by the cyber-world is not specific to it. As early as 1969 the American psychologist from Stanford Philip Zimbardo⁵ demonstrated that when anonymized by being merged in a group people have greater propensity to be violent, disinherited behavior by a loss of personal constraint by a process of de-individualization. Much water has flown under the Thames and Ganges since then.

The mob mentality of the medieval ages is also replicated with fervor in the modern cyber-world. For crowds of similar interest to collect or assemble "offline" was a time and resource consuming activity often limited by geographical proximity. A click of a button has solved the problem aided by de-individualization and disinhibition and consequently misogyny has gone viral (Karla Mantilla 2015⁶) gender trolling is also aided by the fact that the crowd often does not have a traditional leader with an inclination or incentive to discourage cyber-violence as he enjoys online immunity.

Adrienne Massanari, in her work⁷ introduces the word 'toxic techno-culture' as a form of cyber-bullying where a group of leaderless individual bond over attacking, harassing, embarrassing a person, or place and event. They come together on online sites with wider audience to get their point across. She based it on her study on socio-technical sites like Reddit, Twitter and online gaming where there is lack of control or regulations. People tend to attack based on categories of gender, sexual identity, and sexuality race etc. often against issues of diversity, multi-culturism and progressivism. Non-human technological factors like algorithms, policies, scripts create an atmosphere where masculinity in its limited sense is promoted and influence how male users behave with female online. Google searches social platform Computer and videogames, Smartphone apps are all nothing but such potentially influenceable algorithm. A Pew Research Centre study⁸ pointed that when Microsoft strived to train bots to respond to young people on twitter it turned out that bots imitated the patterns of hate speech by mimicking young people suggesting that machines can reduplicate the gender and racial discrimination learning from what people knew implicitly.

The all-male spaces like male groups on social media cultivate toxic masculinity celebrating their virility when any other view is considered effeminate⁹. This increases the toxicity into the cyber space where women are forced into a retraction conservative mode

The social media arrangements like likes, dislikes, comments and shares reinforce gender conservatism and masculinity due to the individual's desire to confirm to standards within socio political echo-chambers.

The persistent presence of data of cyber-violence in the cyberspace also amplifies the problem for the victim. The action of the offender creates a sense of constant fear in the victim as the next action or re-victimization is always present in cyberspace till it is removed especially if it is an image based sexual abuse. Secondary victimization is also persistent both online and offline. Those helping the primary victim are themselves victimized.

The unintended consequences of the virtual world have led it to become a breeding ground for offensive and criminal conduct (Levmore and Nussbaum 2010)¹⁰. One study shows that the huge garbage of misogynistic content in the cyber space is so high that gender trolling is often trivialized¹¹ and hence may be ignored.

PREVALENCE OF CVAWG

The European Union Agency for fundamental rights (FRA) survey on violence against women in the EU¹² shows that: -

- 20 % of the women in the age group of 18-29 have experienced cyber-sexual harassment.
- 5 % of the women have experienced at least one or more form of cyber staking since age of 15.
- More than 70 % of women who have experienced cyber stalking or cyber harassment have also witnessed some form of Physical/sexual violence from an intimate partner.

The data highlights the fact that the Victimization of women begins in real life or "offline mode" because of their identities that challenges the male mindset and is reflected in the "online" mode which is then amplified digitally.

CVAWG is a phenomenon which is an extension of the shadow pandemic of violence against the female gender in the real world. A 2014 Pew Research Survey¹³ found that men are slightly more harassed than women online but it is of a "Mild nature" (name-calling) whereas as women mainly in the age group of 18-24 years' experience a much higher from of severe harassment like cyber stalking and online sexual harassment. Secondly women experience a continuum of online-offline violence. Surveys have found that women who have experienced cyber violence have also experienced some other form of real world violence in a large percentage of cases^{14, 15}.

Key Findings of a survey conducted in India¹⁶ indicate that online abuse is a serious issue in India, affecting more than half of survey respondents. Thirty-six percent of respondents who had experienced harassment online took no action at all. Twenty-eight percent reported that they had intentionally reduced their online presence after suffering online abuse. 30 percent of those who had experienced it found it "extremely upsetting" and 15 percent reported that it leads to mental health issues like depression, stress, and insomnia. Thirty percent of survey respondents said they were not aware of laws to protect them from online harassment. Only a third of respondents had reported harassment to law enforcement; among them, 38 percent characterized the response as "not at all helpful."

In another study Ranu Tomar¹⁷ highlights the more vengeful and patriarchal environment of the small cities of India and the gendered power relations of the workplace. Misogynistic comments and harassment in workplace and virtual spaces like Facebook force women to withdraw from these spaces. Since the study was from the field of journalism reducing female participation in this field would further reduce their viewpoints and augment the algorithm of online-offline gender discrimination. The resultant fallacy is that the violence which occurs online, is treated online i.e. stop using technology or report it on an online portal.

One of the other misconceptions is that online violence is an urban elitist phenomenon (The Ranu Tomar study quoted above refutes it). Whereas the reality is that child pornography, video-graphing of rapes is as prevalent in the rural areas among the underprivileged community. With limited resources with the rural community it further perpetuates the culture of exploitation as the product of such violence is often a "saleable product" in the international porn market.

Digital Gender Gap and VAWAG

Violence against women has to seen in a wider canvas of digital empowerment. It is estimated that more than 90 % of the jobs worldwide will involve some digital component¹⁸. Similarly, if 600 million women get internet access in three years it could translate to an increase in the Global DGP up to 18 billion¹⁹. The 2017 estimates from the ITU (International Telecommunication Union) suggest that women are 12 % less likely to use the internet as compared to men and the 2018 GSMA(Global System for Mobile Communications) report states that the women in the low and middle income country are 10 % less likely to own a mobile phone and 26 % less likely to use the internet²⁰. Similarly, in south Asia 70 % of the women are less likely to own a smart phone. Some research puts the gender digital internet gap at around 50 %.

Such a large digital gender gap is accompanied by a digital gate keeping by men directly by way of CVAWG or indirectly through law enforcement and society by advocating women have limited access by "target hardening" procedures could lead to further deprivation of women of the economic, social benefit of the digital world. For countries like India this is more crucial because of the lower self-belief among women. One fifth of women felt that internet is an inappropriate medium for cultural reason, 12 % avoid internet due to negative social perception and 8 % because of the negative attitude of their family members (Intel and Dalberg, 2012)²¹. With women already self-censoring them from the digital world, methods adopted to tackle cyber violence (target hardening) further alienates the women from the benefits of the fourth revolution. (The Fourth Industrial Revolution represents a new chapter in human development, enabled by extraordinary technology advances that are merging the physical, digital and biological worlds. It is more than just technology-driven change but an opportunity to help everyone, including leaders, policy-makers and people from groups and nations, to harness converging technologies in order to create an inclusive, human-centered future. The World Economic Forum.)

Women empowerment should not be limited to bridging the digital gender gap as it is now focused across nations but to ensure a safe and equal digital citizenship for women in the cyber world.

Is Technology gender Neutral?

Is technology providing a new equitable democratic space free from gender hierarchies or is it yet another tool for consolidation of gender norms is a wider question.

The concept of social shaping of Technology (SST) (see for example William and Edge²²) states that designing and implementation of technology in fact has narrow technological consideration and more patterned by sociological and economic factors. Technology has been influenced by the concept of division of labor and been largely designed by men who have had a disproportionate role in the field of science and technology; highlighting the gendered nature of technology development. This leads to another critical question. Is gender shaping technology? AND Is technology shaping gender? Like for example the various voice assistants have a striking sexist connotation and most predictive text apps all have a biased gender connotation, girls are would invariable lead to cute or pretty prompt²³.

The question about gender neutrality of the digital technology also has two facets. The way the technology is designed and the way the technology functions or is put to use.

A European Parliamentary Report 2018²⁴ observes that gender imbalance, (in the technical sector or the IT sector), gender inequality and gender segregation dictates what contents are produced, commercialized and disseminated, how users behave on the various digital platforms and use the tools in the socio-technoscapes. These

observations mean that in addition to the gender stereotypes the IT Sector specific factors could also contribute to the un-safety of the women online.

Another startling finding is the fact that the violence against women in Silicon Valley itself is alarmingly prevalent²⁵. 53 % of women experienced harassment and 72 % of the harassment was sexual. At 63 % of the times it was by a coworker and 41 % by a senior. The reality in Bengaluru the Silicon Valley of India is no different where three women were raped and videotaped by their bosses for blackmail²⁶. It speaks volumes for the gender neutrality at places that vouch for giving gender neutral spaces to the marginalized.

Emily Chang in her book²⁷ argues that the highly skewed gender disparity among experts at Silicon Valley and other IT fields create a greater risk of gender discrimination by algorithms, technologies and robots of Future as they will be designed predominantly by men with their inherent biases. This may not be entirely unfounded fear as a study on acceptance rates of contribution from men and women in open source software community shows a bias towards men unless the women's gender was hidden and then the acceptance rate was higher²⁸.

All these findings dent the myth that technology is gender neutral because it is designed by men, often driven by algorithms and are prone to reflect their real world or "offline" biases.

Machines have to be fed. If it is fed by a system or culture which is not devoid of human biases their product would be biased. This feeding need not be conscious or deliberate but mostly inadvertent.

CVAWG and Victim Blaming

Our response to cyber-violence has been less different from the earlier response to rape prevention in the real world where the onus primarily lied on the perspective victim herself and was directed at her behavior and responsibility (Ullman, 1997)²⁹. This was nothing short of gender or victim blaming. The often quoted remarks by gate keepers of the morality of society centered on the clothes worn by the victim, the time she moves out of their home, the people she meets or the places she frequents. In the online version of this violence much of the preventive strategies now focus on the victim's burden to leave the online space, turn off the computer or change her privacy setting or simply ignore.

The victim or gender blaming by way of comments on the way a woman behaves or dresses in the real world is also reflected here albeit more forcefully. Whereas her going out may be a necessity in the physical world her being "online" is often considered as luxury which she can always do away with. A woman is supposed to behave in a way that has been scripted for her in a male dominated society and is seen to be delinquent if she does not. This results in what has been termed by Kovacs et al as the 'mother/whore dichotomy'³⁰. If she does not confirm to this patriarchal structure online she would be subjected to shame and humiliation as a form of online misogamy in what is termed as e-bile or online vitriol by Jane³¹.

The offline victim blaming or gender blaming for sexual violence or violence against women extends online even in developed and "modern" societies. A 2017 research on the British Media³² framing of cyber violence highlight how normalization of violence in media reports framed public opinion bordering victim blaming by means of silencing strategies. Victims are often advised to change their privacy setting, go offline or not respond to trolling.

In fact, the report observes that rape culture on the internet is prevalent and that it "incorporates aspects of popular misogyny" and that "Expression of aggressive male sexuality is eroticized in the online sphere... and the press".

CVAWG is often taken as an individual "lapse" that too on part of the victim and no systemic mechanism are devised. Powell. A (2016)³³ questions the advice to women "not to share intimate or private images" and observes that privacy of images is not always in the victim's control. Many images of women and girls are obtained from public or semi-public social media accounts, while others are obtained illegally through hacking accounts and internet-enabled devices, through "upskirting" and "creep shots", as well as through images originally shared privately with an intimate partner". Women, and often underage girls, are therefore being victim-blamed for patterns they are not responsible for, and rather are victims off.

Research by Amnesty international³⁴ also highlights the fact that most of the time due to victim blaming, those who experience online abuse or harassment (around 63 %-83 % of the women) made some change in the way they used social media platforms. Some leave them completely. This raises serious doubt on how gender neutral the ICT technology is and how much of democratization of the political and social spheres they have created.

Study of Sarkar and Rajan³⁵ finds that most women are forced to leave the space as a result of their harrowing experience. This has the dangerous consequence of extending the male domination and subordination of women in physical world into the virtual world. The very essence of the internet as an agent of inclusion, equality social justice, equal participation and as a medium where all views are heard is in danger. In case of gender equality, it is more acute as gender discrimination cuts across geospatial, racial economic and social spheres and is all pervasive and is universal beyond societal boundaries. It is universal but manifests in different forms³⁶. Paradoxically the only way to gender equality women have is to hide their gender. The tendency of the society and agencies to victim blaming and further secondary victimization often leads to irrational coping mechanisms by the survivors (Halder & Jaishanker 2015)³⁷.

When women withdraw from such chambers it reinforces the existing offline patriarchal structures and consequently the cyberspace is devoid of the civil political viewpoints of the gender, fails to create a gendered realignment of views and negates the very purpose of "democratic free space" created by the digital world.

The net result of this is a balancing act that women do to accommodate patriarchy, avoid or ignore misogyny and assimilate gender norms³⁸ rather than confronting or negotiating all of the above with the newly found "democratic space" in order to reap its benefit; an act that she has gained proficiency through the ages.

Embodied Harm

Technology can accelerate or facilitate the traditional human behavior and crime pattern and crime against women is no different. On the contrary tools and conceptual frame works needed to tackle these crime or techno social crime would be different from the ones required to deal with crime in the geospatial world. Techno social refers to technological social enhancements or aids such as mobile phones computer apps and their effect on the way humans interact with one another. This includes websites, dating websites, some types of forums, as well as some blogs, and many other areas in which people interact over the internet, and will be an ever expanding field as technology improves and changes. Secondly contrary to the geospatial crimes, in techno-social crimes the extent, nature and spread are unknown. The huge limitless formless online space also creates a force multiplier effect where damage is done by multiple offenders on multiple victims, enjoyed by multiple beneficiaries, and tolerated by multiple bystanders (Yar, 2005)³⁹. Multiple circulations of sexually implicit photographs of a victim are an example in this regard. In contrast the most important rationale given to lessen these crimes however remains the fact that they are considered less heinous because of the lack of "corporeal bodies" or "physical self".

The biggest fallacy of interpreting cyber violence would be of treating it as a form of non-corporeal crime. It would sadly reflect on how we analyze it and consequently deal with it. This has been highlighted in the work Herring⁴⁰ where he finds that our attitude towards cyber violence is less "prototypical violence", where a prototype is the mental depiction of a certain phenomenon. The word violence strikes a picture of physical aggression rather than mental trauma. This is rather a myth as it has been observed by research on victims of cyber-violence by Sarkar and Rajan (cited before). The victim pleads that on every viewing of contents in the cyber world which constitutes cyber-violence "her whole body shivered and cringed" on seeing the obnoxious comments. This clearly shows that the body is not absent when the subject is "online". Besides ignoring of such online violence in the beginning when it is limited to verbal abuse etc. could lead to what is called Technology facilitated Sexual Violence and harassment (TFSV), (see Henry & Powell⁴¹) where they use this term to describe collectively the range of criminal, civil and otherwise harmful sexually aggressive behaviors perpetrated against women with the aid or use of new technologies. And lastly through threatening and coercion it could lead to violence or rape in the physical world thereby creating "embodied harms", in so doing completing the continuum of violence against women, which ranges from "choice to pressure to coercion to force" as propounded by Kelly⁴²

This body/mind or offline/online biformity results from the failure to understand that when a person is present online it is an alternative entity of their offline body with all its senses and soul and its battering may take greater time to heal than bodily harm.

Likewise, Sheila Brown⁴³ argues that the harm in the virtual world can have real effects on body and mind and have as much "embodied" impact due to "endlessly circulating, shifting, pixels affecting real lives, real humiliation and human pains, and real relations of patriarchal power and exploitation are reproduced and reinforced. This highlights the need to take virtual harm or CVWAG seriously and formulate appropriate response legally and socially.

Social Contract Theory Revisited

The Social contract theory states that people live together in society in accordance with an agreement that establishes moral and political rules of behavior. The theory highlighted the role of consent of men in society and stressed on the equality. Ironically all classical theorists perhaps with the exception of Hobbes saw women as the normal subordinate to men. The current behavior of the digital generation in the cyber age assume that women who enter the cyberspace have somehow agreed and endorsed the digital version of the social contract theory, by placing themselves at a lower pedestal.

In reality the computer or its variants are reduced to a "Skinner box" and the women's response to cyber violence reduced to their murine counterpart in the Skinner box on a par with the operant conditioning of B.F. Skinner. They adjust their digital lives to reduce the possibility of violence, in order to reap the benefits of the digital world.

Law and CVAWG

Just as technology specially ICT has been termed and assumed to be gender neutral so has the phenomenon of cyber-violence been presented as a "gender neutral" phenomenon due to the assumption/naivety of the presumed absence of the female body in the cyberspace.

Secondly CVAWG has changed or challenged the traditional conceptualization of criminality Criminal codes usually focus on the protection of human from bodily harm.

Thirdly the concept of harm has now expanded to extend into the socio-spatial realm from the geospatial world (Young's⁴⁴).

In the sphere of real world in relation to crime against women the laws emphasize on the modesty and chastity of women and the crimes are accordingly graded like molestation, rape, attempt to outrage modesty etc. all creating a hierarchy based on female body and feminine modesty. As a result, an assault or criminal force on a woman (354 IPC or the Indian Penal Code) is of lesser gravity than rape implying that earlier the assault was not complete, yet again focusing on her sexuality and bodily parts. Law offers protection as a chivalrous act to guard her natural domestic purity and thus creates an image of virtuous women making her an object for adulation and abuse^{45, 46}. In consequence if everything is centered on her physical body (and offence graded in the real world) where would it leave her in a virtual world? How would the law enforcement and justice delivery machinery that have been trained and accustomed to deal with traditional violence against women deal with cyber violence against women? Oddly enough the emphasis on her chastity ignores her autonomy to act and behave in a prescribed manner. A women uploading a picture on the web or cyber world is therefore a victim of abuse and a receiver of comments likes "you deserve it" from the society and sometimes the law enforcement agencies. Consequently, there is no balance between the right to privacy and right against cyber violence or harassment.

In India while the Information Technology Act 2000 or the IT Act primarily dealt with the digitalization of the commerce, industry and economy, the IPC although updated is primarily from the pre cyber era. There should be discussion on the possibility of a specific legislation. Similarly, studies should be initiated with the help of sociologist, psychologist's cultural anthropologists and feminists to understand the problem and offer possible rectification measures at the level of society. Meanwhile the police and judiciary should be given cyber gender sensitization modules to understand the true scope of the problem and deal sensitively with the problem within the scope of the present Laws.

With the striking down of the section 66A of the I.T Act (Punishment for sending offensive messages through communication service, etc.) there is a lacuna to fight cyber violence against women. There is a need to reframe this section or include "gender" as a subset of Hate speech in Section 153 A of the IPC. Provisions like criminal defamation (Section 499 IPC) and criminal intimidation (Section 507 IPC) have a high legal threshold and burden of proof requirements. Section 67 and 66 E of the IT Act have requirements which could put the victim as culprit if she had uploaded the picture first (like sending an image to an intimate partner) Most sections deal with 'anti-obsenity ' mindset and focus-less on privacy and consent and reflects on the patriarchal framework of our society in framing of laws which may not have a feminist viewpoint.

Besides even if these hurdles are somehow overcome, the admissibility of digital evidence in court through certified standards, the foreign base of internet intermediaries are hurdles which are even more difficult to surmount. The ethno centric bias of western based social media intermediaries reflects a big cultural gap as many words may be insulting in a regional scenario (and highly offending) as compared to the western world.

The crude reality of cyberspace is that till such time, changes happen; self-policing by women when it concerns sharing of photograph even with intimate partners is the only way out. This is because young women and men are "caught between the poles of precious dis-inhibition that women seek online and the toxic dis-inhibition that men display in virtual world"⁴⁷ (also see online inhibition by Suller)⁴⁸.

The recent judgment of the rape case in Goa virtually codifies as to how a rape victim should respond to an assault on her body and soul highlighting the androcentrism of law. The Tarun Tejpal Judgment of Goa High Court, India Underlines How Little the Judiciary Has Learnt on Sexual Violence⁴⁹.

The Law Enforcement Response to CVAWG

Law enforcement agencies worldwide have been seen as failing to recognize that online VAW is as grievous as offline VAW⁵⁰. The police are often seen to engage in victim blaming and they do not know the fact that consent once given can be withdrawn. The establishment of the various cyber cells has not brought about much success in this regard⁵¹.

If we understand cyber violence in the wider gendered context, it would not be difficult to comprehend the response of the law enforcement officials to this menace. Police and law both view malefaction with the violence associated with it. The offences under penal law are categorized as serious if the violence associated with it is greater, for example rape, murder, dowry death are categorized as serious offences. Similarly, our criminal justice system is mostly dependent on eye witness testimonies although provisions have been made for the role of expert and scientific evidence. As a consequence, any act of violence against women on the street is considered more serious, worthy of attention, allocation of resources, collection of evidence, the presence of eyewitness corroborates the event and post inquiry the case is registered and seriously investigated. On the other hand, a case of online violence is considered devoid of any apparent harm which can be seen or calibrated in form of Medico Legal Report (MLR) or supported by eyewitness testimonies. The secondary victimization prevents the bystanders from taking any action. Thus police continue to function in the realm of the real physical world, keeping in view the exigencies of time, resources and traditional performance appraisal methodologies followed by the department where more "heinous crimes" are monitored.

The offline-online duality further reduces the women's identity as mere bodies or objects and when a policeman asks if any physical harm has occurred he further rubs salt to the wounds of the victim. That the prototypical perception by therapists has potential to influence the therapeutic process of assessment has been studied in domestic violence situation by Blasko⁵². If a victim of cyber-violence approaches a law enforcement official for grievance redressal then his prototypical assessment of the violence and the harm it caused to the victim could be critical in delivering justice to the victim with special reference to the earnestness shown, time spent and the importance given to this event vis-à-vis other criminal events he needs to handle. Even if it does not lead to victim blaming it would certainly influence his earnestness to solve the problem.

The poor unintended response of the law enforcement to the seriousness of the online violence may lead to repeated real world violence and rape which feeds the ever growing market of the porn culture and rape video as a form of toxic masculinity⁵³.

Regarding the law enforcement response, a study in India⁵⁴ found that among the respondents only 10 % sought police help in case of cyber violence. 46 % lacked legal knowledge regarding the same, 40 % were hesitant to enter a police station, 33 % thought police will trivialize their complaint and 45 % thought the police would not deal with them with sensitivity.

The report concluded that the police adopted a protectionist approach at best and a victim blaming judgmentalism at worst. This reflects the mindset of social institutions which are steeped in patriarchal culture and police being an agency responsible to maintain "societal order" would as a result be the most affected.

The response of police over the time has improved and is more sensitive to the needs of the victim but with limited resources, overburdened job profile and time constraints the cases of cyber violence against women are not taken as serious as compared to the other worrisome of the cyber world i.e. financial crimes and cyber-terrorism. The fact remains

that most cyber violence cases are dealt with off court settlements rather than lengthy trials.

The response of the society and law enforcement agencies to crime has traditionally focused on "target hardening" as in crime against property and person. In case of CVAWG it translates to "go offline", "change settings", "be anonymous" etc. and while it is easy and effective way to prevent victimization certain core ethical, social and cultural issues remain. Since the net is the most democratic way to participate and express and core aspect of our social life it inhibits the women from becoming fully empowered digital citizens especially if they have a divergent and challenging view. Besides hiding their gender is almost a solution which could be analogous to emasculating her male counterpart and hardly be called democratic. This strategy although effective, further reinforces the victim blaming or gender blaming attitude of the society.

The Response needed and the Way Ahead

At present the attention given to cyber-violence does not extend beyond a celebrity being trolled. While women enter these digital spaces with new expectation of the born digital generation, wanting to break free of traditional shackles exploring their consciousness and sexuality which extends beyond the traditional concept of chastity and modesty with respect to both their body and soul, most men on the other hand enter the spaces with the same mindset, unwilling to change or alter the power equations vis à vis the female gender.

The trivialization of cyber violence is because of the failure of society to understand the transmogrification of gender based violence in a digital society. The ever evolving digital world needs a response beyond the semantics of law to focus on privacy and consent.

Face to face harassment or harassment on Facebook would both need strategies which addresses cultural norms and focuses on realignment of patriarchal superstructures of the society with action at the micro, meso and macro levels. Different government departments, agencies, schools, college, feminist scholars, educationist, cultural anthropologist, sociologist and technologists should all be involved for developing and monitoring strategies to counter the problem.

Dealing with cyber-violence would need strategies at all levels i.e. the individual, the community level and at the societal level. In addition to target hardening there is a dire need to establish a digital citizenship (Citron and Norton 2011)⁵⁵ where citizen should stand up and intervene when rights of others are infringed. The social media platforms should allocate adequate resources to monitor and remove offensive comments and provide grievance redressal mechanisms. At the societal level there should be adequate, sufficient legal framework for justice to victims and their grievance redressal. There should be international co-operation to ensure that geographical jurisdictions are not critical barriers to deliver social justice.

However, no efforts would be effective if these events are seen as individual violations which are devoid of embodied harms and the social constructs of gender inequalities, power relations, and gender blaming are ignored as in other spheres of violence against women. It remains to be seen and analyzed by cultural anthropologists if the anonymity offered by the technology which breeds immunity actually augments the violence against woman or exposes it with impunity for all too see. The cyber world may have facilitated it but from a different angle may have also exposed this behavior to be revealed for everyone to see and document. The society needs to take cognizance and push a reset button for gender equity.

CONCLUSIONS

Words like liberation, patriarchy, private public space all lure the women into cyber space but the fluid nature of these words entrap her and either force her to ignore the ignominy and move on, leave the space, or file a complainant depending upon the severity of the cyber violence inflicted; or tailor their persona to confirm to the customary code she was attempting to break free from.

We need to re-conceptualize the harm in CVAWG in the legal and social technical frames doing away with the real-virtual duality. Response and solutions should be framed at the micro, meso and macro levels to formulate innovative solutions, keeping in view the role played by the perpetrators, the platform intermediates, the bystanders and most important of all heed to the sensitivity of the victims. Laws should be specific holistic dynamic keeping in view the fast changing pace of technology and address the gendered and trans-border nature of violence. It should be viewed from the wider lens of the traditional historical gendered inequality in our society, rather than a myopic view of cyber feminism.

Our social world is increasingly becoming a human-technology hybrid and all our interactions are increasingly becoming techno-human. The process had started since antiquity, ever since we picked up a hammer and used our hand as technological equipment. Our hand and the hammer have always worked as a unit. Sadly, the contribution of the hand has decreased and that of the hammer increased in our digital world. The process will keep evolving and we need to strike a balance between the two before true techno humans become a reality and gendered imbalance becomes firmly embedded in our techno social lives predominantly governed by Algorithms.

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